



# CENTER FOR FOOD SAFETY

January 19, 2023

*Submitted via FOIAOnline*

U.S. Environmental Protection Agency

## **FREEDOM OF INFORMATION ACT REQUEST**

Center for Food Safety (CFS) is a 501(c)(3) national nonprofit public interest and environmental advocacy organization working to protect human health and the environment through litigation, public education, and science-based advocacy. CFS works to maintain strong government regulations and policies related to industrial animal agriculture and its effects on local communities. Consistent with this mission and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, CFS respectfully requests **all records relating to EPA’s “survey of the Meat and Poultry Products industry as part of its effort to review and revise, as appropriate, effluent guidelines and standards for the category (40 CFR Part 432).”**<sup>1</sup>

The term “records” includes survey responses, questionnaires, correspondence (including correspondence between agency officials, staff members, and contractors, as well correspondence with entities or individuals outside the federal government), emails (including any attachments and message details), notes, meeting invites, minutes, memoranda, comments, files, presentations, consultations, evaluations, analyses, reports, studies, photographs, images, reports, spreadsheets, data (including raw data and GIS data), maps, and/or all other materials responsive to this request.

## **FEE WAIVER REQUEST**

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), CFS respectfully requests that EPA waive all fees in connection with the procurement of this information. As demonstrated below, this request satisfies all the requirements for a fee waiver, as expressed in 5 U.S.C. § 552(a)(4)(A)(iii).

FOIA has a strong presumption in favor of disclosure, and Congress enacted the fee waiver amendments to allow further disclosure to nonprofit, public interest organizations such as CFS. *See* 132 Cong. Rec. S. 14270-01 (statement of Sen. Leahy) (“[A]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information.”). Further, the Ninth Circuit has held that FOIA’s fee waiver should be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (citing Sen. Leahy).

### **I. The requested disclosure is in the public interest because it will significantly contribute to the public’s understanding of government operations and activities.**

Here, disclosure of the requested information “contribute[s] significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii).

#### **A. The disclosure directly concerns “the operations and activities of the government.”**

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<sup>1</sup> <https://www.epa.gov/eg/meat-and-poultry-products-questionnaires>

The requested information pertains to EPA's regulation of discharges from meat and poultry processing plants under the federal Clean Water Act (CWA). It is irrefutable that EPA's regulatory oversight of these facilities is a clearly identifiable government operation. The requested disclosure will thus demonstrate to the public whether EPA is complying with its duties to regulate water pollution and shed a light into EPA's decision-making process.

**B. The disclosure will “contribute significantly to public understanding” of the government’s operations and activities.**

As discussed in the previous section, disclosure will inform the public about EPA's regulatory oversight of meat and poultry processing plants pursuant to the agency's duties under the CWA and other federal laws. The requested information is not available to the public. Thus, disclosure will significantly inform the public about EPA's decision-making process, technical evaluations of environmental impacts, conclusions, and general knowledge regarding EPA's review of water pollution from meat and poultry processing plants.

CFS is a national nonprofit public interest and environmental advocacy organization that aims to empower people, support farmers, and protect the earth from the harmful impacts of industrial agriculture, which includes groundwater contamination from manure land applications and industrial animal production facilities. CFS has over a million members across the country, including thousands of members in Washington who are potentially affected by EPA's actions. CFS informs, educates, and counsels the public through a wide variety of communication and outreach tools, including legal action, presentations, advocacy campaigns, member emails, our online website, our True Food Network, books and reports, and our quarterly newsletter (Food Safety Now!) about the harmful impacts of industrial agriculture on human health, animal welfare, and the environment.

Through nearly two decades of involvement in science-based research, policy advocacy, and litigation relating to the environmental impacts of industrial food production, CFS has demonstrated its ability to take technical information provided by government agencies and distill it into a format that is accessible to the public. CFS regularly puts out reports on industrial manure management systems, pesticides, food and feed additives, organic standards, and other food-related topics that involve highly technical concepts that may be difficult for the layperson to understand without assistance or education from experts. CFS and its membership, along with the general public, are concerned about the safety and impacts of their food production on the environment, and specifically the threat of nitrate groundwater contamination. Accordingly, CFS is an effective vehicle to disseminate information pertaining to EPA's regulatory oversight of water pollution from industrial meat and poultry operations.

**II. CFS has no commercial interest in obtaining the requested information.**

CFS is a 501(c)(3) nonprofit environmental advocacy organization that works to reduce the harmful impacts of industrial food production on human health, animal welfare, and the environment through grassroots campaigns, public education, media outreach, policy advocacy, and litigation. Under FOIA, a “commercial interest” is one that furthers a commercial, trade, or profit interest, as those terms are commonly understood. *See e.g.*, OMB Fee Guidelines, 52 Fed. Reg. 10,017–18. Such interests are not present in this request.

In no manner does CFS seek information from the EPA for commercial gain or interest. CFS respectfully files this FOIA request to achieve its goal of educating the general public about EPA's regulatory oversight and decision-making process regarding water pollution from meat and poultry processing plants. Upon request and free of charge, CFS will provide members of the public with relevant information obtained from EPA as a result of this request. Simultaneously, disclosure will help CFS fulfill its well-established goal of overseeing government operations and activities and ensuring that agencies are complying with their statutory duties to protect the public from the harmful impacts of industrial agriculture.

## CONCLUSION

Based on the foregoing, CFS requests that EPA waive fees for this request and promptly send the requested information. Under FOIA, EPA must respond to this request within **20** working days. 5 U.S.C. § 552(a)(6)(A). If EPA determines that any of the records requested are exempt from disclosure, the law requires the agency to notify us within that twenty-day period. *Id.* If EPA determines that it will take more than 10 days to process this request, EPA must provide "an estimated date on which the agency will complete action on the request." *Id.* § 552(a)(7)(B).

Once EPA has redacted the exempt information, the agency must disclose any segregable, non-exempt information in a readily accessible format. *Id.* § 552(a)(3)(B). Please deliver the requested records in a readily accessible format via FOIAOnline or email. If EPA is not able to send a requested record in its native file format, please send the record in a near-native file format that preserves the content and properties of the native file, including any footers, headers, hyperlinks, internal references, data, formulas, metadata, attachments, and comments.

If EPA decides to withhold any requested information, please provide a detailed description of the withheld material and the basis for withholding it. If EPA decides to fully withhold any records, please further explain why EPA could not segregate and release the nonexempt portions.

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Please send all correspondence relating to this request to [ksinclair@centerforfoodsafety.org](mailto:ksinclair@centerforfoodsafety.org). Thank you for your attention to this request. I look forward to hearing from you shortly.

Sincerely,

/s/ Kristina Sinclair  
Kristina Sinclair  
Associate Attorney